IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2028 OF 2025

Manju Prakash Chhabra .. Petitioner
Mumbai

Versus

Income Tax Officer Ward 34(2)(1),
Mumbai & Ors. .. Respondents

Dr. K. Sreenivasan *i/b Mr. Rahul Hakani a/w Mr. Rahul Hakani, Advocates for the Petitioner.*

Mr. Ravi Rattesar, *Advocate for the Respondent.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE: JUNE 17, 2025.

P. C.

1. The above Writ Petition takes exception to the Notice issued by the Revenue dated 28th March 2025 under Section 148 of the Income Tax Act, 1961 (for short "**IT Act**") for the AY 2023-24. There is also a constitutional challenge to Explanation 2(iv) of Section 148 inserted by Finance Act, 2021 and also to Clause (b) of the proviso to Section 148A inserted by the very same Finance Act.

2. Though several grounds to challenge the said Notice have been set out in the Petition, at this stage, what was pressed before us is that the Notice issued under Section 148 has been issued by the Jurisdictional Assessing Officer and not by the Faceless Assessing Officer, as contemplated under the Scheme dated 29th March 2022 issued by the Central Board of Direct Taxes ("CBDT") under Section 151A of the IT Act.

3. In support of the aforesaid submission, the learned Senior Counsel appearing on behalf of the Petitioner relied upon the decision of this Court in the case of ***Hexaware Technologies Ltd. Vs. Assistant Commissioner of Income-tax, Circle 15(1)(2) [(2024) 162 taxmann.com 225 (Bombay)***].

4. On perusing this decision, and more particularly paragraph Nos. 32 to 39 thereof, we find that this Court has specifically held that the Notice to be issued under Section 148 would have to be as per the Scheme floated by the CBDT dated 29th March 2022 and would have to be by the Faceless Assessing Officer. This Court has specifically held that the Jurisdictional Assessing Officer would have no jurisdiction to issue the notice under Section 148. We not only agree with this view but are bound by it.

5. Be that as it may, since it was pointed out to us that the decision in the ***Hexaware Technologies Ltd. (supra)*** is challenged before the Hon'ble Supreme Court and the same is pending, rather than driving the Revenue to challenge even this order before the Hon'ble Supreme Court, we are of the view that it would be more prudent if Rule is issued in the above Petition and interim relief is granted pending the hearing and final disposal of this Petition.

6. In these circumstances, we pass the following order :-

(a) Rule. The Respondents waive service;

(b) Pending the hearing and final disposal of this Petition, there shall be interim relief in terms of prayer clause (e), which reads thus :-

> *(e) That pending the hearing and final disposal of the present Petition, this Hon'ble Court may be pleased to stay the operation of Notice under Section 148 dated 28th March 2025 issued by the Respondent No.1 for AY 2023-24 (Ex."A").*

(c) Liberty to the parties to apply after appropriate orders are passed by the Hon'ble Supreme Court or a final decision is rendered by the Supreme Court in the case of ***Hexaware Technologies Ltd. (supra)***.

7. The Revenue is directed to file their Affidavit-in-Reply to the above Writ Petition within a period of 8 weeks from today and serve a copy to the learned Advocate for the Petitioner.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**